

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JENNIFER L. MILLER,

Plaintiff,

v.

MICHAEL J. ANDERSON, *et al.*,

Defendants,

and

FIRSTENERGY CORP.,

Nominal Defendant.

Case No. 5:20-cv-01743-JRA

Judge John R. Adams

Magistrate Judge Carmen E. Henderson

**NOMINAL DEFENDANT FIRSTENERGY CORP.'S
STATUS REPORT (PER ECF# 160)**

Nominal Defendant FirstEnergy Corp. ("FirstEnergy"), by and through undersigned counsel, hereby submits this status report pursuant to the Court's instructions in Paragraph 8 of the Case Management Plan (ECF #160).

1. Discovery

FirstEnergy has been diligently collecting and reviewing documents and has made several productions to Plaintiffs on a rolling basis, consisting of 292,209 pages produced to date. The completed rolling productions include the following:

Production Date	Bates Range	Pages Produced
November 5, 2021	FE DERIV 0000001-FE DERIV 0175728	175,728
November 12, 2021	FE DERIV 0175729-FE DERIV 0257363	81,635
November 19, 2021	FE DERIV 0257364-FE DERIV 0288164	30,801
December 15, 2021	FE DERIV 0288165-FE DERIV 0289245	1,081
December 20, 2021	FE DERIV 0289246-FE DERIV 0290314	1,069
December 23, 2021	FE DERIV 0290315-FE DERIV 0292209	1,895
Total Pages Produced		292,209

The initial productions made by FirstEnergy consisted of documents that had been produced to the Department of Justice and the Securities and Exchange Commission in the course of those investigations. More recent productions include documents uniquely reviewed and considered for production in this case, including Board of Directors Materials and custodial text or mobile messages.

FirstEnergy has had many telephonic and written meet and confer communications with Plaintiffs' counsel. Through this process, agreements were reached with respect to many issues, including selection of search terms and custodians, prioritization of review and production of Board of Directors Materials, and a protocol for review of text or mobile message ESI.

FirstEnergy continues to discuss with Plaintiffs a privilege logging protocol that makes sense for its production. FirstEnergy believes that process is productive and plans to continue to work with Plaintiffs to address that issue.

FirstEnergy will continue to make rolling document productions, and it anticipates that Plaintiffs and FirstEnergy can continue to work productively on discovery.

2. Settlement Discussions

The Parties and Nominal Defendant FirstEnergy have recently agreed to participate in a mediation to be conducted by the Honorable Layn Phillips, a former federal judge and preeminent mediator of shareholder litigation matters, at his offices in California on February 1, 2022—the only sufficiently near-term date on which Judge Phillips was available to preside over a mediation. The Court previously set an in-person status conference for January 31, 2022 at 1:00 p.m. (ECF #160.) In light of the mediation now scheduled to occur the next day on the West Coast, the Parties and Nominal Defendant FirstEnergy respectfully request that the Court re-set the status conference for a date on or after February 4, 2022, at the Court's convenience.

3. Motions that Have been Filed or Remained Pending

The parties submitted a Joint Protocol for the Production of Documents and Electronically Stored Information to the Court on November 3, 2021 (ECF #155-2). FirstEnergy requests that the Court enter that Joint Protocol to facilitate the completion of discovery.

4. Developments that Might Give Rise to a Request to Deviate from the Schedule

In light of the mediation noted above, FirstEnergy agrees with the other parties' request to reset the status conference set for January 31. At this time, FirstEnergy is not aware of any other developments that might give rise to a request to deviate from the current schedule and is working towards meeting the deadlines set forth in the Court's Case Management Plan (ECF #160).

December 23, 2021

Respectfully submitted,

/s/ Ann H. MacDonald

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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will notify all counsel of record.

/s/ Ann H. MacDonald

*Attorney for Nominal Defendant
FirstEnergy Corp.*